THE BOMBAY SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS ACT, 1951.

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BOMBAY ACT No. XXIII OF 1951.[1]

[THE BOMBAY SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS ACT, 1951.]

[*5th July 1951*]

Amended by Bom. 39 of 1951.
,, ,, ,, 34 of 1953.
,, ,, ,, 21 of 1954.

An Act to provide for the separation of Judicial and Executive functions in the State of Bombay.

WHEREAS it is expedient to provide for the separation of the performance of judicial and executive functions by officers in the State of Bombay ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Separation of Judicial and Executive Functions Act, 1951.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Amendments to enactments.

2. The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Bombay and the Bombay Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, by-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act ; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

Saving.

4. [2][(*1*) [3][Save as provided in this section, nothing in this Act] shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area ;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date ;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date ;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1951, Part V, pp. 28-29 ; for Report of the Select Committee, *see ibid.*

[2] Section 4 was numbered as sub-section (*1*) by Bom. 34 of 1953, s. 12.

[3] These words were substituted for the words "Nothing in this Act", *ibid.*

[1][and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant enactments as amended by this Act].

[2][(2) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant enactments as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of the relevant enactments as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been originally instituted before such Magistrate or in such Court.

SCHEDULE.

(*See* section 2.)

PART I.—THE CODE OF CRIMINAL PROCEDURE, 1898.

Year.	No.	Short title.	Extent of Amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898.	1. For section 6, the following shall be substituted, namely :— "6. Besides the High Court and the Court constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :— (Classes of Criminal Courts.) I.—Courts of Session. II.—Courts of Magistrates." 2. After section 6, the following shall be inserted, namely :— "*A-1. Classes of Magistrates.* 6-A. There shall be the following classes of Magistrates, namely :— (Classes of Magistrates.) *I. Judicial Magistrates.* (1) Presidency Magistrates. (2) Magistrates of the first class. (3) Magistrates of the second class. (4) Magistrates of the third class. (5) Special Judicial Magistrates

[1] This portion was substituted for clause (*e*) by Bom. 34 of 1953, s. 12.
[2] Sub-section (2) was inserted, *ibid.*

Years.	No.	Short title.	Extent of Amendment.
1	2	3	4
			II. Executive Magistrates.
1898	V	Code of Criminal Procedure, 1898—*contd.*	(1) District Magistrates. (2) Sub-Divisional Magistrates. (3) Taluka Magistrates. (4) Presidency Magistrates specially empowered by the State Government. (5) Special Executive Magistrates."

3. For section 7, the following shall be substituted, namely :—

"7. (*1*) The State of Bombay shall consist of Sessions divisions and Districts. Sessions divisions; and every sessions division; shall for the purposes of the Code, be a district ; or consist of districts.

(*2*) For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district.

(*3*) The State Government may alter the limits or the number of such divisions and districts.

(*4*) The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered." Bom. XXIII of 1951.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898— *contd.*	4 In section 8, in sub-section (*1*), for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted.

5. In section 9,—

(*i*) in sub-section (*1*), after the words "sessions division, and" the words "in consultation with the High Court" shall be inserted ;

(*ii*) in sub-section (*3*), after the words "may also" the words "in consultation with the High Court" shall be inserted ;

(*iii*) in sub-section (*4*), after the words "sessions division may" the words "in consultation with the High Court" shall be inserted.

6. In section 10,—

(*i*) in sub-section (*1*),—

(*a*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ;

(*b*) the words "Magistrate of the first class, who shall be called the" shall be deleted ;

(*ii*) in sub-section (*2*), the words "any Magistrate of the first class to be" shall be deleted ;

(*iii*) sub-section (*3*) shall be deleted.

7. In section 12,—

(*i*) in sub-section (*1*),—

(*a*) the words "besides the District Magistrate" shall be deleted ;

(*b*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ;

(*c*) the words "the State Government or the District Magistrate, subject to the control of the State Government" shall be deleted ;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely :— "(*1-A*) The power of appointment of Magistrates under sub-section (*1*) shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification." ; (*iii*) for the marginal note to the said section, the following shall be substituted, namely :— "Judicial Magistrates."

8. In section 13,—

(*i*) in sub-section (*1*), the words "of the first or second class" shall be deleted and after the words "sub-division" the words "or a taluka" shall be inserted ;

(*ii*) in sub-section (*2*), after the words "Sub-divisional Magistrates" the words "or Taluka Magistrates, as the case may be" shall be added ;

(*iii*) in the marginal note to the said section, the words "or taluka" shall be added.

9. For section 14, the following shall be substituted, namely :—

"14. (*1*) The State Government may, in consultation with the High Court, confer upon any person al or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct.

Special Magistrates.

(*2*) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct: Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought bofore a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force. (*3*) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (*2*)." 10. In section 15, in sub-section (*1*), for the words "The State Government may direct any two or more Magistrates in any place outside the presidency-towns" the words "The State Government may, in consultation with the High Court direct any two or more Judicial Magistrates in any place outside Greater Bombay" shall be substituted. 11. In section 16, for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate" the words "The High Court, subject to the sanction of the State Government" shall be substituted. 12. In section 17,— (*i*) in sub-section (*1*),— (*a*) for the words "All Magistrates" the words "All Judicial Magistrates" shall be substituted; (*b*) the figures ",13" shall be deleted; (*c*) for the words "District Magistrate" the words "Sessions Judge" shall be substituted; (*d*) the word "and" at the end shall be deleted; (*ii*) sub-section (*2*) and sub-section (*5*) shall be deleted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*iii*) in the marginal note to the said section, for the word "Magistrates" the words "Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

13. After section 17, the following sections shall be inserted, namely :—

"17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate.

Subordination of Executive Magistrates to District Magistrate.

17B. Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session."

Inferior Criminal Courts.

14. In section 18, after sub-section (*4*) the following sub-section shall be added, namely :—

"(*5*) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification."

15. In section 29B,—

(*i*) the words "a District Magistrate or" shall be deleted ;

(*ii*) for the words "by any Magistrate specially empowered by the State Government" the words "by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court" shall be substituted.

16. In section 36, for the words "District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	17. For section 37, the following shall be substituted, namely :— "37. In addition to his ordinary powers, the State Government may invest any Magistrate with the powers as specified in the fourth Schedule : Additional powers conferrable on Magistrates. Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court : Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule." 18. In section 38, for the words "conferred on" the words "delegated to" shall be substituted. 19. After section 38, the following section shall be inserted, namely :— "38A. Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation. Powers on Judicial Magistrates to be conferred in consultation with the High Court. *Explanation.*—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final."

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	20. In section 41, to sub-section (*1*) the following proviso shall be added, namely :— "Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court."
			21. In section 57, in sub-section (*2*), for the words "before a Magistrate if so required" the words "before a Magistrate having jurisdiction if so required" shall be substituted.
			22. In section 63, for the words "special order of a Magistrate" the words "special order of a Magistrate having jurisdiction" shall be substituted.
			23. In section 78, in sub-section (*1*), after the words "or Sub-divisional Magistrate" the words "or Magistrate of the first class" shall be inserted.
			24. In section 88, in sub-section (*6C*), the words beginning with the words "of the first" and ending with the words "may be" shall be deleted.
			25. In section 94, in sub-section (*1*) for the words "beyond the limits of the towns of Calcutta and Bombay" the words "beyond the limits of Greater Bombay" shall be substituted.
			26. In section 106, in sub-section (*1*), the words "a District Magistrate, a Sub-divisional Magistrate" shall be deleted.
			27. In section 107, in sub-section (*1*), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" the following shall be substituted, namely :— "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf".

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	28. In section 108, for the words "or a Presidency Magistrate, or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Presidency Magistrate" shall be substituted.
			29. In section 109, for the words "Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			30. In section 110, for the words "Presidency Magistrate, District Magistrate, or Sub-Divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			31. In section 126,— (*i*) In sub-section (*1*), for the words beginning with the words "to a Presidency Magistrate" and ending with the words "first class" the words "to the Court by which an order was made to give security" shall be substituted; (*ii*) for sub-section (*2*), the following shall be substituted, namely :— "(*2*) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."
			32. In section 133, in sub-section (*1*),— (*i*) for the words "District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate" shall be substituted; (*ii*) in the last paragraph for the words "to appear before himself or some other Magistrate of the first or second class" the words "to appear before himself or some other Executive Magistrate" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	33. In section 143, for the words "A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf" the words "A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf" shall be substituted. 34. In section 144, in sub-section (*1*), for the words and brackets "or of any other Magistrate (not being a Magistrate of the third class)" the words "or of any other Executive Magistrate" shall be substituted. 35. In section 145, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 36. In section 147, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 37. In section 164, in sub-section (*1*), for the words "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government" the words "Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf" shall be substituted. 38. In section 167,— (*i*) in sub-section (*1*), for the words "the nearest Magistrate" the words "the nearest Judicial Magistrate" shall be substituted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) for sub-section (*4*), the following shall be substituted, namely :— "(*4*) Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge."

39. In section 170, sub-section (*3*) shall be deleted.

40. In section 174, in sub-section (*5*), for the words "or Magistrate of the first class and any Magistrate" the words "or any Executive Magistrate" shall be substituted.

41. In section 186, in sub-section (*1*), for the words "a District Magistrate, a Sub-divisional Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class" the words "or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.

42. In section 187, in sub-section (*1*), for the words "by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate" the words "the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge" shall be substituted.

43. In section 190,—

(*i*) in sub-section (*1*),

(*a*) the words "District Magistrate or Sub-divisional Magistrate" shall be deleted;

(*b*) for the words "any other" the words "any Judicial" shall be substituted;

(*c*) after the words "in this behalf" the words "by the State Government in consultation with the High Court" shall be inserted;

(*ii*) in sub-section (*2*), the words ", or the District Magistrate subject to the general or special orders of the State Government," shall be deleted;

(*iii*) in sub-section (*3*), after the words "the State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898— *contd.*	44. In section 192,— (*i*) in sub-section (*1*), the words ", District Magistrate or Sub-divisional Magistrate" shall be deleted; (*ii*) in sub-section (*2*),— (*a*) for the words "any District Magistrate" the words "A Sessions Judge" shall be substituted; (*b*) for the words "in his district" the words "in the sessions division" shall be substituted. 45. In section 193, in sub-section (*2*), after the words "the State Government" the words "in consultation with the High Court" shall be inserted. 46. In section 206, in sub-section (*1*),— (*i*) the words "District Magistrate, Sub-divisional Magistrate" shall be deleted; (*ii*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 47. In section 249, for the words "or with the previous sanction of the District Magistrate, any other Magistrate" the words "or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted. 48. In section 260, in sub-section (*1*),— (*i*) the clause "(*a*) the District Magistrate," shall be deleted; (*ii*) in clauses (*b*) and (*c*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 49. In section 261, after the words "The State Government may" the words "in consultation with the High Court" shall be inserted. 50. In section 265, in sub-section (*2*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898— *contd.*	51. In section 269, in sub-section (*1*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.
			52. In section 337, in the proviso to sub-section (*1*), the words "other than the District Magistrate" shall be deleted, and for the words "sanction of the District Magistrate" the words "sanction of the Sessions Judge" shall be substituted.
			53. In section 346, in sub-section (*1*),— (*i*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted; (*ii*) after the words "District Magistrate" the words "or Sessions Judge, as the case may be," shall be inserted.
			54. In section 349,— (*i*) in sub-section (*1*), for the words "to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate" the words "to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted; (*ii*) in sub-section (*1A*), for the words "the District Magistrate or Sub-divisional Magistrate" the words, brackets and figure "the Magistrate empowered under sub-section (*1*)" shall be substituted.
			55. In section 350, in proviso (*b*) to sub-section (*1*), for the words "subordinate to the District Magistrate, the District Magistrate" the words ", the Court of Session" shall be substituted; and the words "or District Magistrate" shall be deleted.
			56. In section 380, the words "or a Sub-divisional Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	57. In section 407,— (*i*) in sub-section (*1*),— (*a*) the word "sub-divisional" shall be deleted; (*b*) for the words "District Magistrate" the words "Court of Session" shall be substituted; (*ii*) in sub-section (*2*),— (*a*) for the words "District Magistrate", wherever they occur, the words "Sessions Judge" shall be substituted; (*b*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 58. In section 408, for the words, "a District Magistrate or other" the words "or a" shall be substituted. 59. In section 413, for the words "District Magistrate or other" the letter "a" shall be substituted. 60. In section 428, in sub-section (*1*), for the words "by a Magistrate" the words "by a Judicial Magistrate" shall be substituted. 61. In section 435,— (*i*) in sub-section (*1*), the words "or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf," and the Explanation to the said sub-section shall be deleted; (*ii*) for sub-sections (*2*) and (*4*), the following shall be substituted, namely :— "(*2*) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*3*) If any Sub-divisional Magistrate acting under sub-section (*2*) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate. (*4*) The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate." 62. In section 436,— (*i*) the said section shall be renumbered as sub-section (*1*) of that section ; (*ii*) in sub-section (*1*) so renumbered for the words " the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make " the words " the Judicial Magistrate to make, " shall be substituted ; (*iii*) the following new sub-section shall be added, namely :— " (*2*) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings : Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made." 63. In section 437, the words " or District Magistrate " and the words " or Magistrate ", wherever they occur, shall be deleted. 64. In section 438, the words " or District Magistrate " shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	65. In section 479, the words ", District Magistrate " shall be deleted.
			66. In section 488, in sub-section (*1*), the words " , the District Magistrate, " and the words " , a Sub-divisional Magistrate " shall be deleted.
			[1][67. In section 503, as inserted by section 21 of Act I of 1951, in sub-section (*2*),— (*i*) for the words " such magistrate shall apply to the district magistrate " the following shall be substituted, namely :— " such magistrate, if he is a judicial magistrate shall apply to the sessions judge and if he is an executive magistrate shall apply to the district magistrate," ; (*ii*) for the words " and the district magistrate " the words " and the sessions judge or the district magistrate, as the case may be," shall be substituted.]
			68. For section 515, the following shall be substituted, namely :— " 515. All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by an Executive Magistrate by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge." Appeal from, and revision of, orders under section 514.
			69. In section 524, in sub-section (*1*), for the words " of a Magistrate of the first class " the words " of an Executive Magistrate " shall be substituted.

[1] This entry was substituted for the original by Bom. 39 of 1951, s. 3, Second Schedule.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	70. In section 528, in sub-section (*2*)— (*i*) for the words "District Magistrate or Sub-Divisional Magistrate" the words "or Sessions Judge" shall be substituted; (*ii*) in the marginal note to the said sub-section, for the words "District or Sub-divisional Magistrate" the words "Chief Presidency Magistrate or Sessions Judge" shall be substituted. 71. In section 559, in sub-section (*2*), for the words "the District Magistrate outside such towns," the words "outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates," shall be substituted. 72. In section 561, for the words "District Magistrate", wherever they occur, the words "a Magistrate of the first class" shall be substituted. 73. In section 562, in the proviso to sub-section (*1*), the words "or Sub-divisional Magistrate" shall be deleted. 74. In section 565, in sub-section (*1*), the words "District Magistrate, Sub-divisional Magistrate" shall be deleted. 75. In Schedule II, in column 8,— (*i*) for the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be substituted; (*ii*) in the entry relating to section 124-A, the words "or District Magistrate" shall be deleted and after the words "in that behalf" the words "in consultation with the High Court" shall be inserted; (*iii*) in the entry relating to section 376, for the words "District Magistrate" the words "Magistrate of the first class" shall be substituted. 76. In Schedule III,— (*a*) In Part I, in item (17), for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*b*) In Part III,— (*i*) after item (1) the following shall be inserted, namely :— (1a) Power to direct warrants to landholders, section 78 ; (*ii*) items (4), (5), (6), (6*a*), (7) and (7*b*) shall be deleted. (*c*) after Part III the following shall be inserted, namely :— " *III-A—Ordinary powers of a Taluka Magistrate.* (1) Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64. (2) Power to arrest, or direct the arrest, in his presence of an offender, section 65. (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85. (4) Power to require search to be made for letters and telegrams, section 95. (5) Power to issue search warrant, section 96. (6) Power to endorse a search warrant and order delivery of things found, section 99. (7) Power to command unlawful assembly to disperse, section 127. (8) Power to use civil force to disperse unlawful assembly, section 128. (9) Power to require military force to be used to disperse unlawful assembly, section 130. (10) Power to apply to District Magistrate to issue commission for examination of witness, section 506. (11) Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514-A. (12) Power to make order as to disposal of property, section 517. (13) Power to sell property of a suspected character, section 525."

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*d*) In Part IV,— (*i*) for item (1), the following shall be substituted, namely :— "(1) The ordinary powers of a Taluka Magistrate;" (*ii*) after item (2), the following shall be inserted, namely : "(2*a*) Power to issue search warrant otherwise than in course of an inquiry, section 98. (2*b*) Power to issue search warrant for discovery of persons wrongfully confined, section 100. (2*c*) Power to require security to keep the peace, section 107. (2*d*) Power to require security for good behaviour, section 109."; (*iii*) after item (3), the following shall be inserted, namely :— "(4) Power to discharge sureties, section 126A. (4*a*) Power to make orders as to local nuisances, section 133."; (*iv*) after item (6), the following shall be inserted, namely :— "(6*a*) Power to make orders etc. in possession cases, sections 145, 146 and 147."; (*v*) after item (8), the following shall be inserted, namely :— "(8*a*) Power to record statements and confessions during a police investigation, section 164."; (*vi*) after item (9), the following shall be inserted, namely :— "(10) Power to hold inquests, section 174."; (*vii*) items (12) to (16) (both inclusive) shall be deleted; (*viii*) item (19) shall be deleted; (*e*) in Part V, items (1*a*), (7), (8), (10), (12), (13) and (14) shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	77. For Schedule IV, the following shall be substituted, namely :—

"SCHEDULE IV.

(*See* section 37.)

Additional powers with which Magistrates may be invested.

PART I.—BY STATE GOVERNMENT.

Powers with which a Magistrate of the First Class may be invested.

1. Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 ;

2. Power to take cognisance of offences upon complaint, section 190 ;

3. Power to take cognisance of offences upon police reports, section 190 ;

4. Power to take cognisance of offences without complaint, section 190 ;

5. Power to transfer cases, section 192 ;

6. Power to try summarily, section 260 ;

7. Power to pass sentence on proceedings recorded by a Magistrate of the Second and Third Class, section 349 ;

8. Power to hear appeals from conviction by Magistrate of the Second and Third Class, section 407;

9. Power to try cases under section 124-A of the Indian Penal Code.

Powers with which a Magistrate of the Second Class may be invested.

1. Power to record statements and confessions during a police investigation, section 164 ;

2. Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;

3. Power to take cognisance of offences upon complaint, section 190 ;

4. Power to take cognisance of offences upon police reports, section 190 ;

Year 1	No. 2	Short title. 3	Extent of amendment. 4
1898	V	Code of Criminal Procedure, 1898—*concld.*	5. Power to take cognisance of offences without complaint, section 190; 6. Power to commit for trial, section 206; 7. Power to stop proceedings instituted otherwise than upon complaint, section 249; 8. Power to make order as to first offenders, section 562. *Powers with which a Magistrate of the Third Class may be invested.* 1. Power to record statement and confessions during a police investigation, section 164; 2. Power to take cognisance of offences upon complaint, section 190; 3. Power to take cognisance of offences upon police report, section 190; 4. Power to stop proceedings instituted otherwise than upon complaint, section 249. PART II.—By State Government. *Powers with which a Sub-divisional Magistrate may be invested.* 1. Power to call for records, section 435. *Powers with which any other Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to make orders, etc., in possession cases, sections 145 and 147; 4. Power to record statements and confessions during a police investigation, section 164; 5. Power to hold inquests, section 174; 6. Power to sell property alleged or suspected to have been stolen, etc., section 524. By District Magistrate. *Powers with which any Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to hold inquests, section 174." *Powers with which a Magistrate of the Third Class may be invested.* 1. Power to record statement and confessions during a police investigation, section 164; 2. Power to take cognisance of offences upon complaint, section 190; 3. Power to take cognisance of offences upon police report, section 190; 4. Power to stop proceedings instituted otherwise than upon complaint, section 249. PART II.—By State Government. *Powers with which a Sub-divisional Magistrate may be invested.* 1. Power to call for records, section 435. *Powers with which any other Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to make orders, etc., in possession cases, sections 145 and 147; 4. Power to record statements and confessions during a police investigation, section 164; 5. Power to hold inquests, section 174; 6. Power to sell property alleged or suspected to have been stolen, etc., section 524. By District Magistrate. *Powers with which any Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to hold inquests, section 174."

PART II—OTHER CENTRAL ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
[1][1871	I	The Cattle trespass Act, 1871.	(1) In section 20, for the words "the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District" the words "the Magistrate of the First Class" shall be substituted. (2) in sections 24, 26 and 27 the words "before a Magistrate" shall be deleted.]
1889	I	The Metal Tokens Act, 1889.	In section 5, in sub-section (*2*), the words "except a District Magistrate or Sub-Divisional Magistrate," shall be deleted.
1894	IX	The Prisons Act, 1894.	In section 52,— (*i*) the words "of the District Magistrate or" shall be deleted; (*ii*) in the first proviso, the words "by the District Magistrate to any Magistrate of the first class and" shall be deleted.
1897	VIII	The Reformatory Schools Act, 1897.	1. In section 8, in sub-section (*2*), for the words "by the State Government in this behalf" the words "by the State Government in this behalf in consultation with the High Court" shall be substituted. 2. In section 9, in sub-section (*1*), for the words "the District Magistrate to whom he is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted. 3. In section 10, for the words "District Magistrate" the words, brackets and figures "Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted. 4. In section 11, in sub-section (*2*), for the words "District Magistrate" the words "Magistrate specially empowered" shall be substituted. 5. In section 31,— (*i*) in sub-section (*4*) for the words "the District Magistrate to whom such Court is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted; (*ii*) in sub-section (*5*), the word "District" shall be deleted.
1900	III	The Prisoners Act, 1900.	In section 37, for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

[1] This portion was inserted by Bom. 34 of 1953, s. 13.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1911	X	The Prevention of Seditious Meetings Act, 1911.	In section 8, the words "or Sub-divisional Magistrate" shall be deleted.
1917	I	The Inland Steam-vessels Act, 1917.	1. In section 33, in clause (*b*) of sub-section (*1*), the words "or the Court of any District Magistrate" shall be deleted. 2. In section 35, in sub-section (*1*), the words "or the Court of the District Magistrate," shall be deleted. 3. In section 38, in clause (*b*), the words "or the Court of the District Magistrate" shall be deleted and for the words "respectively by either Court" the words "by it" shall be substituted.
1923	IX	The Indian Official Secrets Act, 1923.	In section 13, in sub-section (*1*), after the word "Government" the words "or that of a Presidency Magistrate" shall be inserted and the words "which is inferior to that of a District or Presidency Magistrate" shall be deleted.
1927	XVI	The Indian Forest Act, 1927.	In section 67, [1][for] the words "The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government" the words "any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court," shall be substituted.

PART III—BOMBAY ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VII	The Bombay District Police Act, 1867.	In section 34, for the words "a Magistrate of the first class" the words "the District Magistrate or any magistrate specially empowered in this behalf by the State Government" shall be substituted.

[1] This word was substituted for the word "after" by Bom. 21 of 1954, s. 3, Second Schedule.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VIII	The Bombay Village Police Act, 1867.	1. In section 1, the following paragraph shall be added, namely :— "The term 'Executive Magistrate' when used in this Act has the meaning assigned to it in the Code of Criminal Procedure, 1898." V of 1898. 2. In section 6, for the words "the Magistrate", where they occur for the second time, the words "any other executive Magistrate" shall be substituted. 3. In section 8, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted. 4. In sections 9 and 9A, for the words "any Magistrate of the first class" and "Any Magistrate of the first class" the words 'the Magistrate of the District' and "The Magistrate of the District" shall, respectively, be substituted. 5. In sections 19 and 21, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
1889	I	The Bombay Village Sanitation Act, 1889.	In section 15, in sub-section (*1*), for the words beginning with the words "or other" and ending with the words "in this behalf" the words "or any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.
1929	XVIII	The Bombay Borstal Schools Act, 1929.	1. In section 8, the words "a District Magistrate, a sub-divisional Magistrate" shall be deleted. 2. In section 9, for the words "District Magistrate", wherever they occur, the words "Magistrate of the first class" shall be substituted.
1933	VI	The Bombay Village Panchayats Act, 1933.	1. In section 77,— (*i*) in sub-section (*1*), for the words, "District Magistrate" the words "Sessions Court" shall be substituted ; (*ii*) in sub-section (*2*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted ; (*b*) the words "or Magistrate" shall be deleted ;

Year. 1	No. 2	Short title. 3	Extent of amendment. 4
1933	VI	The Bombay Village Panchayats Act, 1933 —*contd.*	(*iii*) in sub-section (*3*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted ; (*b*) the words "or Magistrate" shall be deleted ; (*iv*) in the marginal note to the said section, for the words "District Magistrate" the words "Sessions Court" shall be substituted. 2. In sections 78, 79, 87, [1][and] 87A [2]* * and in the marginal notes to sections 87, 87A and 87B, for the words "District Magistrate" wherever they occur, the words "Sessions Court" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In section 3, in sub-section (*1*), clauses (*c*) and (*d*) shall be deleted.
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 13,— (*i*) in clause (*i*), for the words "by a Magistrate" the words "by an Executive Magistrate" shall be substituted ; (*ii*) in clause (*ii*), after the words "made by" the words "a Judicial Magistrate or" shall be inserted.
1948	LXXI	The Bombay Children Act, 1948.	1. In section 8, clauses (*c*) and (*d*) shall be deleted. 2. In section 41, for the words "District Magistrate or Sub-Divisional Magistrate" the words "Sessions Judge" shall be substituted. 3. In section 80,— (*i*) for the words beginning with the words "the court shall submit" and ending with the words "it is subordinate" the words and figure "the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate" shall be substituted ; (*ii*) in the marginal note to the said section, for the words "District Magistrate" the words "First Class Magistrate" shall be substituted. 4. In section 94, in sub-section (*2*), clause (*a*), for the words "District Magistrate" the words "Court of Session" shall be substituted.

[1] This word was inserted by Bom. 39 of 1951, s. 3, Second Schedule.
[2] The word, figures and letter " and 87B " were deleted, *ibid.*